IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

L.P.A. No. 149 of 2007 (O.&M.)
Date of Decision: 11.10.2007

Ashok Kumar and others.

..... Appellants through Shri Adish C.Aggarwala, Senior Advocate with Shri Subodh K.Pathak, Shri K.K.Saini, and Ms.Simpy Garg, Advocates.

Versus

State of Haryana and others.

..... None for Respondents.

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

....

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

....

VIJENDER JAIN, CHIEF JUSTICE

This is an appeal under Clause X of the Letters Patent directed against judgment dated 3.7.2006 passed by the learned Single Judge in C.W.P.No.7002 of 1986. It is also accompanied by an application under Section 5 of the Limitation Act for condonation of the delay of 300 days which has occurred in its filing.

The only contention that has been raised before us is that the award of the Collector was passed in the year 1986 and thereafter, no supplementary award was passed pertaining to the building, structures, tube-

wells etc. and the same has not been pronounced till date which has violated the right of the appellants to get compensation in lieu of their land and asserts, like building, structures etc. having been acquired. Besides, such an award not having been pronounced within the stipulated period as contemplated under the law, the acquisition proceedings would stand nullified.

A pointed query was put to the learned counsel for the appellants to depict from the pleadings the assertion made by him that there was in existence some building, structures, tube-wells or trees on the land of the appellants, which have been acquired.

Upon this, learned counsel for the appellants referred to the rejoinder (styled as replication), which he had brought on record of the present appeal, but on verification from the record of the writ Court, it transpired that the same had never been filed.

Confronted with this situation where no assertion had been made by the appellants, which assumes greater significance in view of the categorical denial by the respondents, who had stated in their reply to the writ petition, that the land when acquired was vacant, learned counsel for the appellants tried to replenish his argument by referring to the award of the Collector wherein the following observations find mention:-

> "Building, Structures, Tube-wells and Trees.
>
> The assessment reports from the experts on all these heads not been received despite repeated requests to concerned officers and the supplementary award will be announced as and

when the assessment is received."

We have perused the award of the Collector and are unable to persuade ourselves to the inference which the learned counsel for the appellants wants us to draw from the aforesaid observations because the award in question pertains to 299.51 acres, i.e. the entire acquisition and it cannot be inferred that these observations were made by the Collector pertaining to the land of the appellants. It could easily have been qua any of the lands where such structures could have existed.

The ambiguity could have been cleared only by a categoric assertion made by the appellants which has not been done depriving the writ Court of the essential pleadings and as a result of which it had rightly not entered into the domain of such a controversy.

Having regard to the aforesaid, we do not find any merit in the appeal as the appellants have miserably failed to substantiate their plea by not being able to show anything from the record in support thereof.

Moreover, the appellants have failed to show sufficient cause for not filing the appeal in time.

Hence, this appeal is dismissed as barred by time, as also on merits. The various applications which have been moved by the appellants for grant of different reliefs also stand rejected.

(Vijender Jain)
Chief Justice

October 11,2007
"SCM"

(Mahesh Grover)
Judge

....